

June 26, 2008

**2008 Legislative Amendments to the Small Loan Act (“Payday Loans”) -
Effective July 1, 2008**

Questions, Answers, and Administrative Interpretations

1. Can a collection agency as the assignee of a payday loan charge collect fees or other charges or exercise remedies that cannot be otherwise charged or exercised by the payday lender originating the loan?

Answer – No, the law has been clarified to provide that the creditor’s assignee has only the same remedies, and is bound by the same restrictions, as the originating payday lender. Therefore, the creditor’s assignee, like the creditor, may only collect one fee not to exceed \$25 for a dishonored check. These practices also address situations where a creditor assigns a loan to a collection agency that then tries to pursue collection through methods not available to the originating payday lender or engage in practices prohibited by originating payday lenders. [IC 24-4.5-7-202, 406 and 410]

2. Are there still multiple data base providers which provide borrower verification information on payday loans in Indiana?

Answer – No, the act now provides for only a single data base provider for payday loans. The provider endorsed by the Department is Veritec Solutions, LLC. [IC 24-4.5-7-404]

3. Are there still civil penalties which can be assessed against a payday lender for violating the Payday Loans Act?

Answer – Yes, even though IC 24-4.5-7-409 was amended to remove the reference to a civil penalty of \$2,000 for violations of the Payday Loan Act, the general provisions of the UCCC at IC 24-4.5-6-113 (3) provide that if the department determines, after notice and opportunity for hearing, that a person has violated this article (which includes Chapter 7 on Small Loan), the department may, in addition to or instead of all other remedies available under this section, impose upon the person a civil penalty not greater than ten thousand dollars (\$10,000) per violation.